IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 919 of 1998

Manohar Digambar Chavan ..Petitioner

vs.

1. Collector and Deputy
Director of Resettlement
(Land) Solapur and ors. ..Respondents

Shri S.A.Sawant for petitioner
Shri V.S.Gokhale, A.G.P. for respondent nos. 1 to 4.

CORAM: S.B.MHASE AND
D.G.KARNIK JJ.
30th January, 2006

P.C.

1. Heard learned counsel for the parties.

2. In our view no detailed order is necessary as the case is covered by the decision of Supreme Court rendered in Municipal Council, Ahmednagar and another Vs. Shah Hyder Beig and others reported in 2000 AIR SCW 197.

3. Bare facts necessary for our conclusion that the case is covered by the aforesaid decision are stated below.

4. The petitioner's land was acquired under the provisions of the Land Acquisition Act and award was passed on 1st February, 1986. Thereafter possession of the land was taken on 6th February, 1991. Copy of the possession receipt has been annexed by the petitioner as Exh.D to the petition. Learned counsel for the petitioner states that though the possession receipt has been prepared, only paper possession of the land was taken and actual possession was never taken from the petitioner. We notice that the petitioner had applied for certified copy of the panchanama under which possession was taken on 14th January,1992 and the certified copy was delivered to him on 30th January, 1992. The present petition was filed in the year 1998. The petitioner never made any grievance that only paper possession was taken and that the panchanama at Exh.D was sham and bogus. In the circumstances, we are not inclined to believe that the possession was not taken on 6th February, 1991.

5. In Municipal Council, Ahmednagar Vs. Shah Hyder Beig (supra), the Supreme Court has held that once the award has been passed and

possession has been taken no writ petition challenging the acquisition can be entertained. The present petition which challenges the acquisition has been filed after the award and 7 years after possession of the land was taken from the petitioner. The land is already vested in the Government and the petitioner had no subsisting right in the land when he filed the petition. In the circumstances, there is no merit in the petition. Petition is, therefore, dismissed.

6. Learned counsel for the petitioner prays for stay of this order. Since we have held that the petitioner is not in possession, there is no question of granting any stay. Accordingly request for stay is rejected.

(D.G.KARNIK J.) **(S.B.MHASE J.)**